

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JUAN CARLOS CUELLAR, et al.

Plaintiffs,

v.

ANTHONY FIDEL ALAMILLO, et al.,

Defendants.

Case No.: C 09-4047 PSG

**ORDER THAT ANSWER BE
STRICKEN, DEFAULT ENTERED,
AND ALLOWING PLAINTIFFS TO
APPLY FOR DEFAULT JUDGMENT**

A case management conference was scheduled in this matter for December 28, 2010. Counsel for Defendants did not appear. Defendants' counsel also failed to appear at the case management conference scheduled for December 14, 2010. Additionally, Defendants have failed on four separate occasions to file a timely Case Management Statement. (*See* Clerk's Notice Continuing Case Management Conference, September 9, 2010; Order Vacating Preliminary Pretrial Conference, October 28, 2010; Order to Show Cause Why Case Should Not Be Dismissed for Failure to Prosecute, December 15, 2010; Order Dissolving December 15, 2010 Order to Show Cause, December 20, 2010).

On December 28, 2010, the court ordered Defendants to respond in writing by January 4, 2011 to show cause why their answer should not be stricken, default entered, and a default judgment issued against them in this manner. (*See* Order to Show Cause Why Answer Should Not

1 Be Stricken, Default Entered, and a Default Judgment Issued Against Defendants). Defendants
2 have not responded to that order.


3 If a defendant has failed to defend and that failure is shown by affidavit or otherwise, then
4 the clerk must enter the defendant's default. Fed. R. Civ. P. 55(a). The clerk or the court, upon
5 the plaintiff's request, may then issue a default judgment against the defendant. Fed. R. Civ. P.
6 55(b). Accordingly,

7 IT IS HEREBY ORDERED that Defendants' answer is stricken.

8 IT IS FURTHER ORDERED that Defendants' default will be entered.

9 IT IS FURTHER ORDERED that Plaintiffs shall apply for a default judgment no later than
10 January 21, 2011.

11 Dated: January 7, 2011

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13 PAUL S. GREWAL
14 United States Magistrate Judge
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